

BOARD OF CODE STANDARDS AND APPEALS

MINUTES

January 10, 2005

Members: Francisco Banuelos, Andy Bias, Randy Harder, Richard Hartwell, Bernie Hentzen, Ed Murabito, Warren Willenberg, Scot Wolfington, John Youle

Present: Banuelos, Bias, Harder, Hartwell, Hentzen, Murabito, Willenberg, Wolfington, Youle

Staff Members Present: Kurt Schroeder, Deb Legge, Paul Hays, Ray Sledge, Elaine Hammons

The regular meeting of the Board of Code Standards and Appeals was called to order by Chairman Wolfington on Monday, January 10, 2005, at 1:35 p.m. in the 11th floor Fire Department Conference Room, City Hall, 455 N. Main, Wichita, Kansas.

1. Approval of the Minutes from the December, 2004, meeting.

A motion was made by Hartwell, seconded by Harder, to approve the minutes of the December meeting as submitted. Motion carried.

2. Consideration of Robert P. Howard's request to be named as the qualified person for Rainbow Construction's Class A General Contractor's license without re-testing:

Ray Sledge appeared before the Board on behalf of Robert "Bob" P. Howard. Mr. Sledge explained to the Board that Mr. Howard's father, Paul Howard, had been the qualified person for Rainbow Construction until his death in 2004; however, for the past ten years, Mr. Howard has been running Rainbow Construction. Mr. Howard has dealt with the Office of Central Inspection on the construction projects with which Rainbow Construction has been involved.

Mr. Howard has taken the contractor's examination through the Office of Central Inspection and passed the examination. At one time Mr. Howard carried a general contractor's license in the City of Wichita but chose not to continue to keep his license active.

The current licensing records in the Office of Central Inspection do not reflect the testing and subsequent passing of the exam by Mr. Howard; however, Mr. Sledge does recall that he personally administered the exam to Mr. Howard although the paper record no longer exists.

Mr. Sledge petitioned the Board to grant Mr. Howard's request to be named as the qualified person for Rainbow Construction as allowed by Title 18 of the City Code, which gives the Board of Code Standards and Appeals the authority to grant a license if, in the opinion of the majority of the Board, the applicant is qualified by examination, or training and experience, and is financially responsible to fulfill the obligations as a contractor.

It was Mr. Sledge's opinion that there is adequate evidence that Rainbow Construction is financially able to fulfill those obligations, and that Mr. Howard's past working relationship with the City of Wichita as a contractor proved that he possesses the necessary training and experience to take over as the qualified person for the Class A General Contractor's license for Rainbow Construction.

Board Member Murabito made the motion that the requirement for testing be waived in the case of Mr. Robert "Bob" P. Howard. The motion was seconded by Hentzen. Motion carried.

3. Condemnation Hearings

Review Cases

1. 1532 N. Barwise

Chairman Wolfington noted that this property had been demolished.

2. 635 W. Hendryx

No one appeared to represent this property, however, Ms. Legge told the Board that she had spoken to the daughter of the owner that day to inform her that the Office of Central Inspection would recommend to the Board that an additional sixty days be granted to the owner for repair of the property.

The taxes are current for this property. The front yard is full of tree limbs resulting from an ice storm on January 4, 2005. The structure is secure and

being maintained. Work has been started on the roof, but recent inclement weather has interrupted the progress.

Board Member Youle made a motion to allow an additional sixty days to complete the repairs or appear before the Board. Hartwell seconded the motion. Motion carried.

3. 1121 S. Terrace

No one appeared to represent this property. Since the last hearing, two of the major repairs, the skirting around the foundation and repairs to the porch, have been completed. The property owners stated in a letter to the Office of Central Inspection that those repairs had been made. New windows have been installed, although it is unknown whether the windows that are presently boarded up have been replaced. The structure does need some paint. The staff recommendation is that the property be returned to regular code enforcement.

Board Member Hentzen made a motion to send the property back to regular code enforcement. The motion was seconded by Youle. Motion carried.

4. 1535 E. Pawnee (Commercial)

The condition of this property is relatively unchanged. No repairs have been made to the site. The premises have been kept mostly clear except for some tires and barrels; the condition of the canopy appears to be more deteriorated. The taxes for 2002 and 2004 are delinquent in the amount of \$1,252.40.

Brian White from the law firm of Hinkle Elkouri appeared on behalf of the property owner, Marken Industries. Mr. White told the Board that Mark Boswell, one of the principals at Marken Industries, was still attempting to negotiate the sale or lease of the property. The representative appearing for Marken Industries at the November Board meeting, Eric Barth, had indicated at that time that a contract was pending for the sale or lease of the property. Mr. White explained that the contract had not evolved as anticipated; however, he said that Mr. Boswell continued to seek a buyer or lessee.

Mr. White recapped the circumstances surrounding the site, including the fire damage and the insurance monies paid to the previous lessee, who collected the insurance proceeds and failed to repair or rebuild the structures. Marken

Industries has instigated litigation against the former lessee for the insurance proceeds, and a motion for default judgment is pending. The ability to actually collect the monies is currently unknown. Because of the former lessee's failure to rebuild the structures with the insurance proceeds paid out to him, the property was left in its current condition.

In Mr. White's opinion, Mr. Boswell is attempting to maintain the property as much as possible. Based on the expense that would be incurred by the demolition or repair of the canopy, Mr. White indicated that Mr. Boswell would like to arrange a sale or lease prior to taking either of those actions. Mr. White said that Mr. Boswell does not feel that the canopy presents a danger and would be willing to put a fence around the site and continue to maintain the property "as is," if that would be acceptable to the Board.

Addressing some concerns that were voiced at the November, 2004, Board meeting, Mr. White told the Board that the property is currently insured to cover any type of liability that might occur on the site, and that the underground tanks had been emptied shortly after the fire that had caused the damage to the property.

Board Member Hartwell noted that even if the property is sold, it would still be a dangerously deteriorated property. He asked Mr. White what the obligation would then be from the potential buyer. Mr. White responded that the owner's intent was to lease the property with the understanding that the lessee would be responsible to rebuild the structure. The other option would be to possibly sell the property to a local general contractor who could rebuild on the site and then lease it.

Board Member Murabito pointed out that the sale of the property in its current condition would likely require that the structure be discounted in the price; therefore, demolishing the canopy prior to a sale would not necessarily create any additional financial hardship. Mr. Murabito also theorized that clearing the property might make it sell more quickly.

Chairman Wolfington told the Board that the property would automatically go before the City Council for demolition action unless there was a motion to rescind the original motion from the November, 2004, Board meeting.

Mr. White inquired about the meaning of a motion for "10 and 10." Chairman Wolfington explained that the Board makes a recommendation to the City Council for the demolition of the structure, at which time the Council Members

vote on the recommended action. Deb Legge added that it usually takes approximately sixty days before a property goes before the Council. Chairman Wolfington said that the property owner or his representative can appear before the City Council at that time to appeal the Board's recommendation, or the owner can initiate the demolition himself within the sixty-day period before the property goes in front of the Council. Mr. White inquired whether the motion recommended by the Board would include the underground gas tanks or only the canopy. Since the underground tanks had not been raised as a concern, Chairman Wolfington said the Board recommendation would include only the canopy.

Mr. White asked for an interpretation of the phrase "10 and 10." Ms. Legge defined it as meaning that if the Council adopted a resolution for condemnation, the property owner would be given ten days to start and ten days to complete the demolition. If the owner did not take the necessary action in that time frame, the City would demolish the structure.

Board Member Hartwell raised the question of the delinquent taxes. Mr. White said that he understood that the taxes had been paid in full and felt certain it was Mr. Boswell's intention to bring the taxes current. Kurt Schroeder advised Mr. White that if Mr. Boswell intended to present something to the City Council regarding the property, the delinquent taxes would have to be paid or per the standard policy of the Council, an extension would not be granted. Ms. Legge explained to Mr. White that having the canopy razed or replaced would circumvent any necessary action by the City Council.

5. Discussion and public hearing on proposed 2000 IBC/Title 18 amendments:

Kurt Schroeder prefaced the discussion by explaining that it was a follow up on the preliminary overview that was given at the December, 2004, Board meeting. He told the Board that Mr. Paul Hays had made some of the changes suggested by the Board at the previous meeting. Mr. Schroeder said that a summary of the proposed changes had been included in the December, 2004, CINCH newsletter that is published by the Office of Central Inspection.

Mr. Hays began with Section 8, addressing a comment by Board Member Murabito at the previous Board meeting, concerning a church structure with a raised baptistery area. The proposed amendment had been changed to include an exception for building features that are part of a religious practice or

ceremony. Mr. Hays said that it might be more practical to list the exception under Item No. 3 since that item talks about an assembly floor.

It was suggested by Mr. Hays that another change in Section 8 that might be considered was to change the language of the first sentence. Instead of actually specifying different use groups, it could be beneficial to have the wording changed to encompass all A-3 use groups so that it would not be limited to only the uses listed.

Board Member Murabito asked for a definition of "putty pads," a term used in Section 13, Exception 1.4. Mr. Hays explained that they are pads placed on the backside of an electrical box to aid in fire resistance. Mr. Schroeder asked Mr. Hays how he came up with that terminology. Mr. Hays answered that it was language carried over from the 2003 IBC.

Mr. Hays said the only other concern that had been raised was from Section 21 regarding solid surfaces for stairway treads and landings. The proposed amendment was modified to allow an exception for exterior stairs to have perforated openings for drainage, provided a sphere with a diameter of 0.1875 inches (3/16-inch; 5mm) cannot pass through the opening.

Board Member Hartwell made a motion to recommend to the City Council that the proposed amendments to the 2000 IBC be approved. The motion was seconded by Youle. Motion carried.

Mr. Schroeder informed the Board that there was a slight delay in the progress of approval due to the review of the mechanical code by the mechanical board of appeals. Currently, the City of Wichita is under the International Mechanical Code and the mechanical board members are considering whether they want to continue under the International Mechanical Code or go back to the Uniform Mechanical Code. The pending mechanical code adoption could require revisiting the IBC 2000 proposed amendments in order to encompass ventilation requirements that are not addressed in the Uniform Mechanical Code.

Meeting adjourned at 2:00 p.m.